

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD MAY 22, 2002
PHOENIX, AZ

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on May 22, 2002, at AZ POST, 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sheriff Joe Richards, Acting Chairman
Director Dennis Garrett
Director Terry Stewart
Sergeant Gary Eisenga
Mrs. Jan Cross
Mr. Jim Garcia
Chief Jerry Sheridan
Mr. Patrick Cunningham, representing Attorney General Janet Napolitano
Assistant Chief Jack Harris, representing Chief Harold Hurtt

Members Absent:

Attorney General Janet Napolitano
Chief Harold Hurtt
Chief John Corder
Sheriff Clarence Dupnik

Staff in Attendance:

Tom Hammarstrom
Ed Routh
Lynn Larson
Marie Dryer
Colin Peabody
Ted Brandon
Steve Jacobs
Gary Maschner
Carol Muskus
Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Asst. A.G.

Guests in Attendance:

Denise Gonzalez, Phoenix Police Department
James E. Briseno

Luis Martinez, Gila River Police Department
Rick Colwell, Yuma Police Department
Bobby Harris, Chandler Police Department
James Palmer, Coolidge Police Department
Sam Weiss, CARLOTA
Jasbert Williams, NNDPS
Terry Calaway, CAC
Dennis Jenkins, CAC
N. Jarvis, USPS
D. Jamiz
Scott Mascher, Yavapai County Sheriff's Office/NARTA
Gary L. Thomas, Attorney
Daniel J. Russo, Jr., Phoenix Police Department
Ed Cibbarelli, CAC
Jamie Kootswatewa, Hopi Resource Enforcement
Merv Yoyetewa, Hopi Rangers
Lt. Debbie Francis, Pinal County Sheriff's Office
Eric Gustafson, Phoenix Police Department

A. CALL TO ORDER

Acting Chairman Joe Richards called the meeting to order at 1:35 p.m.

B. INTRODUCTIONS

Tom Hammarstrom presented Kimmie Stevens with a plaque in appreciation for her four years of service with AZ POST. Ms. Stevens transferred to another secretarial position with DPS.

C. CONSENT AGENDA

Approved unanimously, motion made by Director Garrett, seconded by Director Stewart.

1. Minutes of the meeting held on March 20, 2002, were approved as written.
2. Income and Expense Statement - May 2002 - approved as recorded.

Funds as of March 1, 2002	\$1,134,578.08
CJEF Revenue	486,899.25
Expenditures/Encumbrances	(207,580.62)
Balance for March 31, 2002	\$1,413,896.71

3. The next scheduled Executive Session according to A.R.S. §38-431(A)(1), §38-431.03(A)(2), and/or A.R.S. §38-431.03(A)(3) or (A)(4): Wednesday, July 17, 2002, at 2:00 p.m., at the Little America Hotel, located at 2515 East Butler Avenue, Flagstaff, AZ.

4. The next scheduled Regular Meeting: Wednesday, July 17, 2002, at 2:30 p.m., at the Little America Hotel, located at 2515 East Butler Avenue, Flagstaff, AZ.

5. Ministerial Actions:

a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule 13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Steven Chavira	Paradise Valley Police Department
John H. Guthrie	Arizona State Parks
Roy M. Kingsbury	Mohave County Sheriff's Office
Stephen B. MacKinnon	Avondale Police Department
Gary B. Manjarres	AZ Department of Public Safety
Ronald H. Myers	Maricopa County Constables

b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.

c. Training Program Approvals: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were approved as requested. LIST ATTACHED TO MINUTES.

d. Decertification Case Status Report Updates: As of May 8, 2002, the Certifications and Standards Unit had 89 active decertification cases in various stages of the process. Seventeen cases are ready for initial presentation, 29 cases require further investigation, 4 cases are pending service of or response to a Notice of Complaint or Decision, 4 cases are pending hearing, 11 cases are ready for final action, and 23 cases are pending outside activity, i.e., a criminal trial or civil service hearing.

D. REGULAR AGENDA

1. Consideration of the 2002/2003 AZ POST budget - Chief Bobby Harris presented the proposed budget for 2002/2003 to the Board. Chief Harris reported that the Finance Advisory Committee held a meeting on May 17, 2002, to review the budget as recommended by POST staff. The Committee approved the budget to be presented to the Board for final approval. Chief

Harris and the Board applauded the outstanding job that the Finance Advisory Committee and POST staff did in completing the 2002/2003 budget. Director Garrett made a motion to accept the 2002/2003 AZ POST budget as presented, seconded by Chief Sheridan, motion carried unanimously.

2. C.A.R.L.O.T.A. Driving Track - Consideration for Funding for Driving Track Corrections - The Board considered comments from Tom Hammarstrom and Terry Calaway, Executive Vice-President of Central Arizona College. Mr. Hammarstrom stated that in partnership with the Department of Public Safety and Central Arizona College, AZ POST has provided grant money to construct a drivers' training facility at Central Arizona College, CARLOTA. The amount of participation by the Board was \$620,000 over the last several years, and the track is almost completed. POST has learned that execution of the drainage plan for the track has resulted in unanticipated hazards that could be a danger to students.

Central Arizona College has identified the remedy. The cost of the remedy, which involves filling in certain depressed areas, removing certain culverts and generally leveling the track, is going to be approximately \$250,000. POST has reviewed the suggested remedy, and believes it is appropriate. POST has asked our Subject Matter Expert Committee (SME) to meet at the driving track on Friday, May 24, 2002, to evaluate the suggested remedy, and give us a recommendation about whether or not it will make the track completely safe to use. POST and CAC are in agreement that no more money will be spent until after the evaluation by the SME committee, and they agree that the \$250,000 will completely fix the problems.

Central Arizona College has identified \$150,000 for the purpose of implementing these corrections. They require another \$100,000 to complete the project. CAC must use their money this fiscal year. We cannot approve the track for use unless the corrections are made. Acting Chairman Richards requested follow-up information on the driving track be put on the July agenda.

Director Stewart made a motion that the Board grant an additional \$100,000 to Central Arizona College for corrections to the drainage design of the CAC driver training track, provided that the suggested corrections meet with the approval of POST Driver Training Subject Matter Experts Committee, seconded by Chief Sheridan, motion carried unanimously.

E. REPORTS

1. AZ POST - Special Projects

- a. Decertification Case Status Reports - Update - Mr. Hammarstrom referred the Board to the Consent Agenda for this update.
- b. Publication of Proposed Rules in the Register - Update - Mr. Hammarstrom reported that POST has been advised we will be on GRRC's July agenda for consideration of POST's proposed rules.
- c. Consolidated Law Enforcement Applicant Reporting System - Update - No report.
- d. Legislative Update - The Legislature has approved the transfer of title of the C.O.T.A. facility from DPS to Department of Corrections. Additionally, the bill retains the instruction to divide the proceeds in the event the property is sold between the General Fund and the POTF. Director Garrett said it was his understanding that the right of first refusal would be in the language of the bill. Director Stewart advised Director Garrett the right of first refusal was not in the language of the bill, however, Director Stewart suggested developing an IGA between POST and the Department of Corrections to ensure that the right of first refusal is offered to POST if the property is sold. Director Garrett agreed an IGA would be satisfactory.

2. BASIC TRAINING

Mr. Lynn Larson reported on the following academies:

ALEA - There are 157 cadets on campus representing 20 agencies. Class #364 will be graduating on May 24th representing 13 agencies. They are very close to completing their Tactical Village. There will be an Open House upon completion.

COTA - There are one regional and three residential classes, with a total of 86 cadets. Twenty-two Motor Vehicle Department cadets on campus, with eight County Detention officers also attending programs. There were 329 correctional officers graduating from 14 different classes during 2002. COTA has also provided weekend housing for four cadets attending SALETC.

Fifty-nine lesson plans need to be completed. By the end of next week, 51% of the lesson plans will be completed and distributed to the academies. With the help of Ed Felix, the first set, Functional Area Six, Community and Police Relations, has been distributed to every academy on CD.

The Comprehensive Certification Pilot Tests - Between June 19, 2001, and May 20, 2002, we have done 29 different academy classes. With the help of POST's Standard and Compliance Unit, we have completed nine academies, with 856 individual recruits. Each one of the tests have three blocks. Over the last year, 2,568 individual tests have been taken with 192 individual failures, which equates to a 7.5% failure rate. Hopefully, all of the test items will be validated by Dr. Haladyna and distributed to the academies by June 30, 2002.

At this time, Acting Chairman Richards asked Tom Hammarstrom if the Integrity Bulletins are still being published. Mr. Hammarstrom replied the Integrity Bulletin will be included in the next POST Newsletter, soon to be completed and distributed by the end of May. The Integrity Bulletin will also be posted on AZ POST web site, www.azpost.state.az.us.

3. POLICE CORPS

No report.

4. DEPARTMENT OF CORRECTIONS

Director Stewart wanted to take this opportunity to thank the Board, Director Hammarstrom, Director Garrett, POST staff, in particular Lyle Mann, for supporting the change in title of COTA.

5. ARIZONA REGIONAL COMMUNITY POLICING INSTITUTE

Mr. Hammarstrom stated that in July Commander Kim Humphrey will be returning to the Phoenix Police Department, and Commander Rich Kush from the Tempe Police Department, currently the ALEA Commander, has been chosen as the Executive Director of AZRCPI.

6. ADVISORY COMMITTEE REPORTS

No report.

F. CASES: Consideration and possible action on the certified status of peace officers.

Because of time constraints and the fact that so many people were speaking before the Board on behalf of Officer Malay, Case #10 was presented first.

Case #10 - Michael P. Malay - Phoenix Police Department - The Board considered comments from Mr. Malay's attorney, Michelle Molinario, Officer Dan Russo, Officer Douglas Opferbeck, Officer Joseph Twyford, Officer Jesse Abernathy, and Denise Gonzales speaking on behalf of Mr. Malay, and Asst. A.G. Diana Stabler.

Asst. A. G. Diana Stabler made an objection to Officer Russo's testimony as irrelevant as far as PLEA's missing Mr. Malay's appeal and the civil service process in his case. The Board sustained the objection and limited Officer Russo's testimony to other areas.

The Board considered the Stipulated Findings of Facts and Conclusions of Law and Consent Agreement. Chief Sheridan made a motion to adopt the Consent Agreement as written and suspend peace officer certification for one year and four months, beginning August 18, 2001, seconded by Mr. Cunningham, motion failed 4 to 3. Mr. Garcia made a motion to revoke peace officer certification, seconded by Director Stewart, motion carried 4 to 3. Assistant Chief Harris and Mrs. Cross recused themselves from participating or voting.

Case #1 - James L. Adams - Formerly with Graham County Sheriff's Office - The Board considered the documentation regarding violations of R13-4-109(A)(1)(4)(7) and (8). Chief Sheridan made a motion to adopt the Findings of Facts and Conclusions of Law and revoke peace officer certification, seconded by Director Garrett, motion carried unanimously.

Case #2 - Sarah L. Breeze - Winslow Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(7) and (8). Director Garrett made a motion to adopt the Findings of Facts and Conclusions of Law as determined by Administrative Law Judge Diane Mihalsky and revoke peace officer certification, seconded by Sergeant Eisenga, motion carried unanimously.

Case #3 - James E. Briseno - Douglas Police Department - The Board considered comments by Mr. and Mrs. Briseno. Mrs. Cross and Director Stewart recused themselves from voting, therefore, there was not a quorum. This case was tabled for a future Board meeting.

Because of time constraints, Case #7 was taken out of order. Case #7 - Steven A. Gutierrez - Safford Police Department - The Board considered documentation regarding violations of R13-4-109(A)(6)(7) and (8). Chief Sheridan made a motion to adopt the Findings of Facts and Conclusions of law and revoke peace officer certification, seconded by Director Garrett, motion carried. Mrs. Cross recused herself from voting.

Case #4 - Jesus R. Cabrera - AZ Department of Corrections - The Board considered the Consent Agreement, Order and Decision (voluntary relinquishment of peace officer certification). Director Garrett made a motion to adopt the Consent Agreement, Order and decision, seconded by Mr. Garcia, motion carried unanimously.

Case #5 - Gary B. Carr - Gila River Police Department - The Board considered documentation regarding violations R13-4-109(A)(7) and (8). Sergeant Eisenga made a motion to adopt the Findings of Facts and Conclusions of Law and suspend peace officer certification for one year beginning May 22, 2002, seconded by Director Stewart, motion carried unanimously.

Case #6 - Ernesto L. Estrada - Pinal County Sheriff's Office - The Board considered documentation regarding violations of R13-4-109(A)(6)(7) and (8). Mr. Garcia made a motion to adopt the Findings of Facts and Conclusions of Law and revoke peace officer certification, seconded by Director Garrett, motion carried unanimously.

Case #8 - William M. Johnson - Glendale Police Department - The Board considered documentation regarding violations of R13-4-109(A)(7) and (8). Director Garrett made a motion to adopt the Findings of Facts and Conclusions of Law and revoke peace officer certification, seconded by Sergeant Eisenga, motion carried unanimously.

Case #9 - Curtis R. Lopez, Sr., - Yavapai-Apache Nation Police Department - The Board considered the Consent Agreement, Order and Decision. Mr. Cunningham made a motion to adopt the Consent Agreement, Order and Decision, and dismiss the complaint against Officer Lopez, seconded by Mr. Garcia, motion carried unanimously.

Case #11 - Christopher J. Valdez - AZ Department of Public Safety - This case was tabled until the next Board meeting because there was not a quorum.

Case #12 - Derek P. James - Hopi Resource Enforcement - The Board considered comments from Derek P. James, Gary L. Thomas, as attorney for Mr. James, Mervin Yoyetewa, Jamie Kootswatewa, Diana Stabler and Ted Brandon. The Board admitted all documents provided by staff and Mr. Thomas, and ruled on a Motion to Reconsider revocation of peace officer certification. Director Garrett made a motion to deny the request for a rehearing, seconded by Mr. Cunningham, motion carried unanimously.

G. CALL TO THE PUBLIC

None received.

H. ADJOURN

Acting Chairman Richards adjourned the meeting at 4:15 p.m.

Dated May 28, 2002

Lois Sherlock, Recording Secretary

MINUTES APPROVED:

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